



**In re Estate of Isaya Kimani Ngugi (Deceased) (Succession Cause E184 of 2024)
[2024] KEHC 15313 (KLR) (Family) (29 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15313 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E184 OF 2024
PM NYAUNDI, J
NOVEMBER 29, 2024
N THE MATTER OF THE ESTATE OF ISAYA KIMANI NGUGI (DECEASED)**

BETWEEN

KEZIA WAITHIRA KIMANI APPLICANT

AND

FIDELIS WANJIRU KIMANI RESPONDENT

RULING

1. The Application for determination is Summons for revocation for Grant ‘Ad Colligenda Bona’ dated 21st May 2024 and presented under Section 76 (a), (b) and (c) of the *Law of Succession Act* and Rules 44 and 73 of the *Probate and Administration Rules*.
2. The Applicant seeks the revocation of Grant of Letters of Administration Ad Colligenda Bona issued to the respondent on 8th April 2024 and valid for a period of 9 months. The Grant is set to expire on 7th January 2025.
3. The Applicant contends that the Grant was obtained by false misrepresentations by the Applicant. She asserts that as wife she has ‘priority in law over the Deceased properties as compared to the Petitioner’.
4. She takes issue with the manner that the Petitioner has sought to wield the grant and in particular that she has sought to take over the rental businesses and collection of rent of a business that is under the joint partnership with a 3rd party. She contends that the interference by the Respondent will make it difficult for the business to pay pending loans and sustain the daily lives of those dependent on the income from the Estate.



5. The Respondent avers that she obtained the grant procedurally. Her actions were necessitated by the failure of the Applicant to take out letters of administration, thereby jeopardising their entitlement to the estate.
6. The Application was canvassed by way of written submissions. It is not disputed that the deceased died on 16th December 2023. From the averments by the Applicant it is evident that she continues to run/draw income from the estate. She does not dispute that she has not initiated the process of taking out letters of administration. Her actions in relation to the estate are therefore in violation of Section 45 of the Law of Succession Act which prohibits anyone from dealing with a deceased's person property without proper authorisation. The law considers her an intermeddler.
7. I have seen the Petition for Grant of Letters of Administration Ad Colligenda Bona that that was presented and in particular paragraph 5 of the supporting affidavit sworn on 5th March 2024. The Respondent disclosed the beneficiaries of the Estate and importantly recognised the Applicant and her children. It is therefore not possible to lay a charge that she misrepresented on who the beneficiaries of the Estate are.
8. It is the failure by the Applicant to take out letters of administration while at the same time drawing from the estate that triggered the Petition for the Grant.
9. Based on the above analysis, I find that the Application is not merited and it is therefore dismissed in its entirety. For purposes of safeguarding the Estate, I will in exercise of powers prescribed under Section 47 of the Law of Succession Act order as hereunder;
 - a. The Applicant, Keziah Waithera Kimani to Petition for Grant of Letters of Administration within 90 days.
 - b. Fidelis Wanjiru Kimani to produce a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings with the Estate from the date of her appointment to 30th November 2024 within 90 days from the date hereof.
 - c. Matter will be mentioned before the Deputy Registrar, Family Division on 26th March 2025 to confirm compliance and take further directions.
 - d. Owing to the relationship between the parties there shall be no order as to costs.

DATED, SIGNED AND DELIVERED ON THE VIRTUAL PLATFORM, AT NAIROBI THIS 29th DAY OF NOVEMBER, 2024.

PATRICIA NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

